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April 15, 2004

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Re: U.S. Patent Application Serial No. 09/712,821  
Applicants: Todd M. Kinsella  
Filed: November 13, 2000  
Title: *Methods and Compositions for Screening Using Diphtheria Toxin Constructs*  
Attorney Docket No.: RGV-003

Dear Sir:

Responsive to the Interview Summary Mailed from the USPTO on April 6, 2004, we enclose herewith for filing in the above-referenced case the following:

1. Statement of the Substance of the March 31, 2004 Interview;
2. Prepaid Acknowledgment Postcard.

Please charge any necessary fees to our Deposit Account No. 12-0080. Applicant requests any extensions of time necessary to respond.

"Express Mail" mailing label number EV 311 021 923 US

Date of Deposit April 15, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

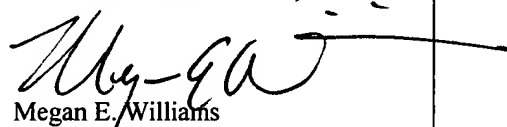
Signature

  
Megan E. Williams

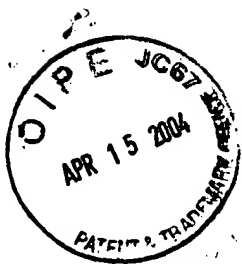
Please Print Name of Person Signing

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

  
Megan E. Williams

Reg. No. 43,270



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: Todd M. Kinsella

Serial No.: 09/712,821

Filed: November 13, 2000

For: **Methods and Compositions for Screening Using  
Diphtheria Toxin Constructs**

Attorney Docket No.: RGV-003

Group Art Unit: 1639

Examiner: Padmashri Ponnaluri

Commissioner for Patents  
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Signature

Megan E. Williams

Please Print Name of Person Signing

**STATEMENT OF THE SUBSTANCE OF THE  
MARCH 31, 2004 INTERVIEW**

Dear Sir:

Applicant thanks the Examiner for the courtesy of a telephonic interview that took place on March 31, 2004 between Applicant's Attorney, Megan Williams, and Examiner P. Ponnaluri.


The restriction requirements issued in connection with the application were discussed. The Examiner indicated that claims 7-12 would be withdrawn from consideration based on the election made in the Response to Restriction Requirement mailed to the US Patent Office on March 26, 2002. Applicant's attorney discussed claims 38, drawn to a vector comprising a first and second selection gene, fused such that transcription results in a single transcript and comprising a site which allows for functional separation of the two selection genes, and, where the first selection gene is HBEGF and 21, where the site that allows for functional separation

is an IRES site. It was pointed out that these claims embrace the use of a first selection gene which is HBEGF and a second selection gene which is GFP. The Examiner indicated that she would reconsider the Restriction Requirement.

### CONCLUSION

If a telephone conversation with Applicant's attorney would expedite the prosecution of the above-identified application, the examiner is urged to call Applicant's attorney at (617) 227-7400.

Respectfully submitted,

  
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Registration No. 43,270  
Attorney for Applicant

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Dated: April 15, 2004